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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/877,188	06/11/2001	Berthold Fecteau	P 257000 RP-00063-US4	2391

909 7590 12/09/2003  
PILLSBURY WINTHROP, LLP  
P.O. BOX 10500  
MCLEAN, VA 22102

EXAMINER
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LUBY, MATTHEW D

ART UNIT	PAPER NUMBER
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3611

DATE MAILED: 12/09/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/877,188

Applicant(s)

FECTEAU ET AL.

Examiner

Matt Luby

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 16 September 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-130 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-130 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. §§ 119 and 120

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some \* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
\* See the attached detailed Office action for a list of the certified copies not received.
- 13) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.  
a) ☐ The translation of the foreign language provisional application has been received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 17.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

## DETAILED ACTION

### ***Claim Rejections - 35 USC § 103***

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1-21, 24, 77-87, 109, 113 and 114 are rejected under 35 U.S.C. 103(a) as being unpatentable over Applicant's Admitted Prior Art, hereafter, AAPA, in view of and Christensen et al. (U.S. Patent 3,734,219).

3. AAPA discloses a snowmobile (110) comprising a frame (Figure 1) having a straddle-type, singular seat (Figure 1), a front suspension being one of an A-arm suspension system and a trailing arm suspension system (Figure 1), first, second and third seat positions on a singular defined by the seat (e.g., a first spot and second spot on the seat), an engine (Figure 1), a drive track (120), a forward-most drive axle (144), two skis (116), and a steering device (e.g., the entire steering unit of 110) having a steering position (a spot on the steering device, 132), a steering shaft (136) wherein the first seat position is disposed about 565 mm behind the forward most drive axle, the second seat position is disposed behind the first seat position by about 340 or 290 mm, the third seat position is disposed behind the second seat position by about 310 or 345 mm and the frame is between 1493 and 1913 mm long (see Figures 1 and Figure 8 describing various measured distances on a conventional snowmobile, which measured

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distances in Figure 8 for the conventional snowmobile can meet the distances required by the claims).

4. AAPA does not specifically disclose that the angle of the steering shaft is 33° from the vertical or that the steering position is disposed forward of the forward most-drive axle.

5. Christensen et al. disclose a snowmobile having a steering position (the position midway between handlebars 10) disposed forward of the forward-most drive axle (Figure 3 shows this configuration) and that the angle of the steering shaft is 33° from the vertical (col. 2, lines 43-45) in order to help provide a stable steering system (column 1, lines 37-38).

6. It would have been obvious to one of ordinary skill in the art at the time of the invention to provide that the steering position is disposed forward of the forward most-drive axle and a steering shaft having an angle of 33° from the vertical on the AAPA snowmobile as taught by Christensen et al., in order to construct a preferred snowmobile design and to help provide a stable steering system.

7. It is noted that since it has been held that discovering an optimum value of a result effective variable (for example an optimum angle of a steering shaft, various seat positions as measured from a forward-most drive axle or a distance between a steering position and a forward-most drive axle) involves only routine skill in the art. *In re Boesch*, 617 F.2d 272, 205 USPQ 215 (CCPA 1980).

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8. Claims 26-47, 50 and 110 are rejected under 35 U.S.C. 103(a) as being unpatentable over AAPA in view of Christensen et al.

9. AAPA disclose a snowmobile (110) comprising a frame (Figure 1) having a straddle-type, singular seat (Figure 1), a front suspension being one of an A-arm suspension system and a trailing arm suspension system (Figure 1), first, second and third seat positions on a singular defined by the seat (e.g., a first spot and second spot on the seat), an engine (Figure 1), a drive track (120), a forward-most drive axle (144), two skis (116), a steering shaft (136) operatively connecting the two skis to the steering device (Figure 1) wherein the first seat position is disposed about 565 mm behind the forward most drive axle, the second seat position is disposed behind the first seat position by about 290 or 340mm, the third seat position is disposed behind the second seat position by about 310 or 345 mm and the frame is between 1493 and 1913 mm long (see Figures 1 and Figure 8 describing various measured distances on a conventional snowmobile, which measured distances in Figure 8 for the conventional snowmobile can meet the distances required by the claims).

10. AAPA does not specifically disclose that the steering position is disposed forward of the forward most-drive axle.

11. Christensen et al. disclose a snowmobile having a steering position (the position midway between handlebars 10) disposed forward of the forward-most drive axle (Figure 3 shows this configuration) in order to help provide a stable steering system (column 1, lines 37-38).

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12. It would have been obvious to one of ordinary skill in the art at the time of the invention to provide that the steering position is disposed forward of the forward most-drive axle on the AAPA snowmobile, as taught by Christensen et al., in order to help provide a stable steering system.

13. Regarding the limitations that the steering position is disposed forward of the forward most-drive axle by between 40mm and 90 mm., 50 mm and 80 mm, 60mm and 70 mm or 65 mm, the modified AAPA snowmobile does not disclose these specific dimensions but it would have been obvious to one having ordinary skill in the art at the time the invention was made to dispose the steering position forward of the forward-most drive axle by between 40mm and 90 mm., 50 mm and 80 mm, 60mm and 70 mm or 65 mm, since it has been held that discovering an optimum value of a result effective variable involves only routine skill in the art and to accommodate riders having varying arm lengths. *In re Boesch*, 617 F.2d 272, 205 USPQ 215 (CCPA 1980).

14. Claims 52-65, 67-75, 111 and 112 are rejected under 35 U.S.C. 103(a) as being unpatentable over AAPA in view of Christensen et al.

15. AAPA disclose all of Applicant's claimed invention (refer to 103(a) rejection of claims 26-47 and 50 above) including a tunnel (AAPA discloses a frame that is tunnel-like fitted over the drive track 120) and a back end of the seat extending behind a rearward-most portion of the frame (shown in Figure 1) and a support member extending upwardly and rearwardly from the frame (the portion of the frame shown in Figure 1 at the rear end which extends rearwardly & upwardly at an angle to provide

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support for the bottom rear part of the seat, thereby providing structural support for the seat behind the back end of the frame) and wherein the back end of the seat extends behind the frame by about 80 mm, 230 mm, 60 mm or 290 mm (Figures 1 and 8 describe various measured distances on a conventional snowmobile, which measured distances in Figure 8 for the conventional snowmobile can meet the distances required by the claims since the distance from the back end of the seat extending behind the frame is about the same as the distance I).

16. AAPA does not specifically disclose that the steering position is disposed forward of the forward most-drive axle.

17. Christensen et al. disclose a snowmobile having a steering position (the position midway between handlebars 10) disposed forward of the forward-most drive axle (Figure 3 shows this configuration) in order to help provide a stable steering system (column 1, lines 37-38).

18. It would have been obvious to one of ordinary skill in the art at the time of the invention to provide that the steering position is disposed forward of the forward most-drive axle on the AAPA snowmobile, as taught by Christensen et al., in order to help provide a stable steering system.

19. Claims 88-91 are rejected under 35 U.S.C. 103(a) as being unpatentable over AAPA in view Christensen et al

The modified AAPA invention discloses all of Applicants' claimed limitations but does not disclose that the steering position is disposed forward of the forward most-

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drive axle by between 40mm and 90 mm., 50 mm and 80 mm, 60mm and 70 mm or 65 mm. It would have been obvious to one having ordinary skill in the art at the time the invention was made to dispose the steering position forward of the forward-most drive axle by between 40mm and 90 mm., 50 mm and 80 mm, 60mm and 70 mm or 65 mm, since it has been held that discovering an optimum value of a result effective variable involves only routine skill in the art and to accommodate riders having varying arm lengths. *In re Boesch*, 617 F.2d 272, 205 USPQ 215 (CCPA 1980).

20. Claims 92-99 and 115 are rejected under 35 U.S.C. 103(a) as being unpatentable over AAPA in view of Christensen et al.

21. AAPA discloses a snowmobile (110) comprising a frame (Figure 1) having a straddle-type seat (Figure 1), a front suspension being one of an A-arm suspension system and a trailing arm suspension system (Figure 1), a seat position defined by the seat (e.g., a spot on the seat), an engine disposed on the frame in front of the seat (Figure 1), a drive track (120) disposed below the frame and connected to the engine (Figure 1), a forward-most drive axle (144) disposed on the frame (Figure 1), two skis (116), a steering device (e.g., the entire steering unit of 110) having a steering position (a spot on the steering device, 132), a steering shaft (136), wherein the seat position is disposed about 565 mm behind the forward most drive axle (see Figures 1 and Figure 8 describing various measured distances on a conventional snowmobile, which measured distances in Figure 8 for the conventional snowmobile can meet the distances required by the claims).



22. AAPA does not specifically disclose that the steering position is disposed forward of the forward most-drive axle.

23. Christensen et al. disclose a snowmobile having a steering position (the position midway between handlebars 10) disposed forward of the forward-most drive axle (Figure 3 shows this configuration) in order to help provide a stable steering system (column 1, lines 37-38).

24. It would have been obvious to one of ordinary skill in the art at the time of the invention to provide that the steering position is disposed forward of the forward most-drive axle on the AAPA snowmobile, as taught by Christensen et al., in order to help provide a stable steering system.

25. Regarding the limitations that the steering position is disposed forward of the forward most-drive axle by between 40mm and 90 mm., 50 mm and 80 mm, 60mm and 70 mm or 65 mm, the modified AAPA snowmobile does not disclose these specific dimensions but it would have been obvious to one having ordinary skill in the art at the time the invention was made to dispose the steering position forward of the forward-most drive axle by between 40mm and 90 mm., 50 mm and 80 mm, 60mm and 70 mm or 65 mm, since it has been held that discovering an optimum value of a result effective variable involves only routine skill in the art and to accommodate riders having varying arm lengths. *In re Boesch*, 617 F.2d 272, 205 USPQ 215 (CCPA 1980).

26. Claims 100-103 and 116 are rejected under 35 U.S.C. 103(a) as being unpatentable over AAPA in view of Christensen et al.

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27. AAPA discloses a snowmobile (110) comprising a frame (Figure 1) having a straddle-type seat (Figure 1), a front suspension being one of an A-arm suspension system and a trailing arm suspension system (Figure 1), a forward-most drive axle (144), two skis (116), a steering shaft (136) operatively connecting the two skis to the steering device (Figure 1), a seat position defined by the seat (e.g., a spot on the seat), an engine disposed on the frame in front of the seat (Figure 1), a drive track (120) disposed below the frame and connected to the engine (Figure 1), wherein the seat position is disposed about 565 mm behind the forward most drive axle and the frame is between 1493 and 1913 mm long (see Figures 1 and Figure 8 describing various measured distances on a conventional snowmobile, which measured distances in Figure 8 for the conventional snowmobile can meet the distances required by the claims).

28. AAPA does not specifically disclose that the steering position is disposed forward of the forward most-drive axle.

29. Christensen et al. disclose a snowmobile having a steering position (the position midway between handlebars 10) disposed forward of the forward-most drive axle (Figure 3 shows this configuration) in order to help provide a stable steering system (column 1, lines 37-38).

30. It would have been obvious to one of ordinary skill in the art at the time of the invention to provide that the steering position is disposed forward of the forward most-drive axle on the AAPA snowmobile, as taught by Christensen et al., in order to help provide a stable steering system.

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31. Claims 104-108 and 117 are rejected under 35 U.S.C. 103(a) as being unpatentable over AAPA in view of Christensen et al.

32. AAPA discloses a snowmobile (110) comprising a frame (Figure 1) having a straddle-type seat (Figure 1), a front suspension being one of an A-arm suspension system and a trailing arm suspension system (Figure 1), a seat position defined by the seat (e.g., a spot on the seat), an engine disposed on the frame in front of the seat (Figure 1), a drive track (120) disposed below the frame and connected to the engine (Figure 1), a forward-most drive axle (144) disposed on the frame (Figure 1), two skis (116), a steering device (e.g., the entire steering unit of 110) having a steering position (a spot on the steering device, 132), a steering shaft (136) and the frame is between about 1493 mm and 1913 mm long, wherein the steering position is disposed forward of the forward-most drive axle by about 65mm (see Figures 1 and Figure 8 describing various measured distances on a conventional snowmobile, which measured distances in Figure 8 for the conventional snowmobile can meet the distances required by the claims).

33. AAPA does not specifically disclose that the steering position is disposed forward of the forward most-drive axle.

34. Christensen et al. disclose a snowmobile having a steering position (the position midway between handlebars 10) disposed forward of the forward-most drive axle (Figure 3 shows this configuration) in order to help provide a stable steering system (column 1, lines 37-38).

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35. It would have been obvious to one of ordinary skill in the art at the time of the invention to provide that the steering position is disposed forward of the forward most-drive axle on the AAPA snowmobile, as taught by Christensen et al., in order to help provide a stable steering system.

36. Regarding the limitations that the steering position is disposed forward of the forward most-drive axle by between 40mm and 90 mm., 50 mm and 80 mm, 60mm and 70 mm or 65 mm, the modified AAPA snowmobile does not disclose these specific dimensions but it would have been obvious to one having ordinary skill in the art at the time the invention was made to dispose the steering position forward of the forward-most drive axle by between 40mm and 90 mm., 50 mm and 80 mm, 60mm and 70 mm or 65 mm, since it has been held that discovering an optimum value of a result effective variable involves only routine skill in the art and to accommodate riders having varying arm lengths. *In re Boesch*, 617 F.2d 272, 205 USPQ 215 (CCPA 1980).

37. Claims 22, 23 and 25 are rejected under 35 U.S.C. 103(a) as being unpatentable over AAPA in view of Christensen et al., as applied to claim 1, 14, 26 and 40 (respectively) above, and further in view of Atherley (5,944,380).

38. The modified AAPA snowmobile discloses all of Applicants' claimed invention except for a second seat section that is removable with a cargo space behind the first seat section and beneath the second seat section. Atherley discloses a seat having first and second seat sections (106 and 104, respectively) with a cargo space (44) beneath the second seat section (see Figure 4, for example) wherein the second seat section is

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removable (see Figure 7) in order to provide the seat exchangeability. It would have been obvious to one of ordinary skill in the art at the time of the invention to provide a second removable seat section with a cargo space beneath it on the modified AAPA snowmobile as taught by Atherley in order to provide seat exchangeability.

39. Claims 48, 49, 51, 66 and 76 are rejected under 35 U.S.C. 103(a) as being unpatentable over AAPA in view of Christensen et al., as applied to claims 26, 48, 40, 65 and 76 (respectively) above, and further in view of Atherley (5,944,380).

40. The modified AAPA snowmobile discloses all of Applicants' claimed invention except for a second seat section that is removable with a cargo space behind the first seat section and beneath the second seat section. Atherley discloses a seat having first and second seat sections (106 and 104, respectively) with a cargo space (44) beneath the second seat section (see Figure 4, for example) wherein the second seat section is removable (see Figure 7) in order to provide the seat exchangeability. It would have been obvious to one of ordinary skill in the art at the time of the invention to provide a second removable seat section with a cargo space beneath it on the modified AAPA snowmobile as taught by Atherley in order to provide seat exchangeability.

41. Claims 118-130 are rejected under 35 U.S.C. 103(a) as being unpatentable over Applicant's Admitted Prior Art, hereafter, AAPA, in view Christensen et al. (U.S. Patent 3,734,219).

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42. AAPA discloses a snowmobile (110) comprising a frame (Figure 1) having a straddle-type, singular seat (Figure 1), a front suspension being one of an A-arm suspension system and a trailing arm suspension system (Figure 1), first, second and third seat positions on a singular defined by the seat (e.g., a first spot and second spot on the seat), an engine (Figure 1), a drive track (120), a forward-most drive axle (144), two skis (116), and a steering device (e.g., the entire steering unit of 110) having a steering position (a spot on the steering device, 132), a steering shaft (136) wherein a seat position is disposed about 565 mm behind the forward most drive axle (see Figures 1 and Figure 8 describing various measured distances on a conventional snowmobile, which measured distances in Figure 8 for the conventional snowmobile can meet the distances required by the claims).

43. AAPA does not specifically disclose that the angle of the steering shaft is 33° from the vertical or that the steering position is disposed forward of the forward most-drive axle.

44. Christensen et al. disclose a snowmobile having a steering position (the position midway between handlebars 10) disposed forward of the forward-most drive axle (Figure 3 shows this configuration) and that the angle of the steering shaft is 33° from the vertical (col. 2, lines 43-45) in order to help provide a stable steering system (column 1, lines 37-38).

45. It would have been obvious to one of ordinary skill in the art at the time of the invention to provide that the steering position is disposed forward of the forward most-drive axle and a steering shaft having an angle of 33° from the vertical on the AAPA

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snowmobile as taught by Christensen et al., in order to construct a preferred snowmobile design and to help provide a stable steering system.

46. It is noted that since it has been held that discovering an optimum value of a result effective variable (for example an optimum angle of a steering shaft, various seat positions as measured from a forward-most drive axle or a distance between a steering position and a forward-most drive axle) involves only routine skill in the art. *In re Boesch*, 617 F.2d 272, 205 USPQ 215 (CCPA 1980).

47. Regarding the limitations that the steering position is disposed forward of the forward most-drive axle by between 40mm and 90 mm., 50 mm and 80 mm, 60mm and 70 mm or 65 mm, the modified AAPA snowmobile does not disclose these specific dimensions but it would have been obvious to one having ordinary skill in the art at the time the invention was made to dispose the steering position forward of the forward-most drive axle by between 40mm and 90 mm., 50 mm and 80 mm, 60mm and 70 mm or 65 mm, since it has been held that discovering an optimum value of a result effective variable involves only routine skill in the art and to accommodate riders having varying arm lengths. *In re Boesch*, 617 F.2d 272, 205 USPQ 215 (CCPA 1980).

### ***Response to Arguments***

48. Applicant's arguments with respect to claims 1-117 have been considered but are moot in view of the new ground(s) of rejection.

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***Conclusion***

49. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Matt Luby whose telephone number is (703) 305-0441.

The examiner can normally be reached on Monday-Friday, 9:30 a.m. to 6:00 p.m..

50. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lesley Morris can be reached on (703) 308-0629. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

51. Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-1113.

Matt Luby  
Examiner  
Art Unit 3611



M.I.  
November 26, 2003